

## TITLE 43. PROFESSIONS AND BUSINESSES

### CHAPTER 20. HEARING AID DEALERS AND DISPENSERS

#### 43-20-1. Short title

This chapter may be cited as the "Georgia Hearing Aid Dealers and Dispensers Act."

**HISTORY:** Ga. L. 1970, p. 653, § 1; Code 1933, § 84-5601, enacted by Ga. L. 1978, p. 1728, § 1.

#### 43-20-2. Declaration of policy

The purpose and intent of this chapter is to establish and enforce standards of competence and ethics in the dispensing of hearing aid devices or instruments, for profit or otherwise, and to protect the public from the dispensing of hearing aids, for profit or otherwise, by unskilled or unprincipled persons.

**HISTORY:** Ga. L. 1970, p. 653, § 2; Code 1933, § 84-5602, enacted by Ga. L. 1978, p. 1728, § 1.

#### 43-20-3. Definitions

As used in this chapter, the term:

(1) "Apprentice dispenser's permit" means a temporary nonrenewable one-year permit issued while the applicant is in apprenticeship under a licensed dispenser in order to become a licensed hearing aid dispenser.

(2) "Board" means the State Board of Hearing Aid Dealers and Dispensers.

(3) "Dealer's license" means the license required for each office, store, or location established or maintained for the dispensing of hearing aid devices or instruments in this state.

(4) "Dispenser's license" means the license required for each individual who shall engage in the practice of dispensing hearing aid instruments or devices to or for use by the eventual user thereof.

(5) "Hearing aid device or instrument," "hearing aid," or "aid" means any wearable electronic instrument or device designed for or represented or offered for the purpose of compensating for defective human hearing, including parts, attachments, ear molds, and accessories, except batteries, cords, replacement tubing, and minor service limited to the removal of battery corrosion.

(6) "License" means any license issued to hearing aid dealers or to hearing aid dispensers by the State Board of Hearing Aid Dealers and Dispensers or by the division director on behalf of the board under this chapter.

(7) "Practice of dispensing hearing aids" means the providing of a hearing aid to a consumer by sale, rental, lease, or otherwise. A holder of a license or permit issued under this chapter shall be entitled to conduct testing and other procedures to determine suitability for use of a hearing aid, to determine hearing aid characteristics which properly compensate the hearing condition, to select suitable aids, to fit aids to the subject, and to counsel and instruct in the use thereof.

(8) "Training permit" means a temporary renewable six-month permit issued while the applicant is in training, under the direct supervision and immediate observation of a licensed dispenser, to become a licensed dispenser.

**HISTORY:** Ga. L. 1970, p. 653, § 3; Code 1933, § 84-5604, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 2000, p. 1706, § 19.

#### 43-20-4. Creation of board; composition; qualifications of members; terms of office; vacancies; selection of officers

(a) There shall be established a State Board of Hearing Aid Dealers and Dispensers, which shall administer and enforce this chapter.

(b) Members of the board shall be residents of the state. The board shall consist of seven members; four of whom shall hold licenses issued by the board and shall have no less than three years' experience as a hearing aid dispenser; one of whom shall be a diplomate or eligible for certification by the American Board of Otolaryngology and licensed to practice medicine in this state; one of whom shall be an audiologist licensed under Chapter 44 of this title; and one of whom shall be appointed from the public at large.

(c) Each member of the board shall be appointed by the Governor with the approval of the Secretary of State. The term of office for each member shall be three years or until his successor has been appointed and qualified except that, for the first board appointed under this chapter, two members shall be appointed for a two-year term and three members shall be appointed for a three-year term. Upon the expiration of each term, the Governor, with the approval of the Secretary of State, shall appoint a successor as provided above. Any vacancy on the board arising from death, resignation, or other cause shall be filled by such appointment for the unexpired term. The members of the board shall annually designate one such member to serve as chairman and another to serve as vice-chairman and may select such additional officers as the board deems necessary.

**HISTORY:** Ga. L. 1970, p. 653, § 13; Code 1933, § 84-5614, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1991, p. 401, § 1; Ga. L. 1996, p. 1017, § 1.

#### 43-20-5. Meetings; reimbursement of members; notice of meetings

(a) The board shall meet not less than once a year at a place, day, and hour determined by the division director and as many other times per year as deemed necessary. Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(b) The division director shall notify each member of the board not less than ten days in advance of the time and place of any meeting of the board.

**HISTORY:** Ga. L. 1970, p. 653, § 15; Code 1933, § 84-5616, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2000, p. 1706, § 19; Ga. L. 2001, p. 4, § 43; Ga. L. 2010, p. 266, § 25/SB 195.

#### 43-20-6. General powers and duties of board; division director

(a) The board shall have the responsibility and duty of administering and enforcing this chapter. The board shall have the power to establish and to revise minimal procedure and equipment requirements which shall be used in the dispensing of hearing aids.

(b) The board shall:

- (1) Supervise the issuance of licenses and administer qualifying examinations;
- (2) License persons who make proper application to the division director and who meet the qualifications for licensure;
- (3) Issue and renew licenses;
- (4) Suspend, revoke, or otherwise sanction licenses in the manner provided in this chapter;
- (5) Appoint representatives to conduct or supervise examinations; and
- (6) Make available to the public a copy of this chapter, any amendments thereto, and all adopted rules.

(c) The division director shall be guided by the recommendations of the board in all matters relating to this chapter and shall assist the board in carrying out this chapter.

(d) In the administration and enforcement of this chapter, the board shall have the power to adopt reasonable rules and regulations not inconsistent with this chapter and the Constitution and laws of this state or of the United States for governing its times and places of meetings; for organization and reorganization; for the holding of examinations; for governing all other matters

requisite to the exercising of its powers; for the performance of its duties relating to examinations; for granting, suspending, revoking, or otherwise sanctioning licenses; and for the transaction of its business under this chapter.

(e) The board may provide, by regulation, for the general scope of the examination described in Code Section 43-20-9. The board may approve the examination and obtain advice and assistance in providing for and grading such examination; and the division director may contract with third parties to perform administrative services related to the examination as he or she deems appropriate.

**HISTORY:** Ga. L. 1970, p. 653, § 14; Code 1933, § 84-5615, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 2000, p. 1706, § 19; GA. L. 2010 p. 266, § 26/SB 195.

43-20-7. License required; scope of authority of license holders; issuance of duplicate licenses

(a) It is unlawful for any person or firm to engage in the practice of dispensing hearing aids, as defined in this chapter, in this state without having a valid license issued under this chapter.

(b) No person or firm, except those exempted in Code Section 43-20-19, shall engage in the practice of dispensing hearing aid devices or instruments or display a sign or in any way advertise or represent himself or any firm as practicing the dispensing of hearing aid devices or instruments in this state unless such person holds an unsuspended, unrevoked license issued by the board.

(c) A dispenser's license issued under this chapter shall entitle the holder to dispense hearing aid devices or instruments under the supervision of a licensed dealer.

(d) The dealer's license issued under this chapter shall permit and require the holder to establish and operate an establishment open to the public for the purpose of dispensing hearing aids and providing follow-up services.

(e) No firm shall engage in the practice of dispensing hearing aid devices or instruments or display a sign or in any way advertise or represent itself as dispensing hearing aid devices or instruments in this state unless each office or location is staffed by a person who holds a valid dispenser's license issued under this chapter.

(f) Duplicate dealers' licenses shall be issued by the division director on behalf of the board to valid license holders operating more than one office or place of practice upon the payment of an additional dealer's license fee for each location, provided that each such location shall be staffed and supervised by a person holding a valid dispenser's license issued under this chapter.

**HISTORY:** Code 1933, § 84-5603, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 2000, p. 1706, § 19.

43-20-8. Issuance of licenses; fees

(a) The board may issue a dealer's license to any applicant for a dealer's license upon compliance with this chapter, upon payment of the appropriate license fee for a dealer's license, and upon the presentation of evidence satisfactory to the board that he has established or will establish and maintain a regular office, store, or location for the dispensing of hearing aid devices or instruments, and that a person who possesses a valid Georgia dispenser's license will be responsible for the dispensing of hearing aids under such dealer's license.

(b) The board may issue a dispenser's license to an applicant only when the applicant has satisfactorily completed a board approved examination and when proof of age has been verified. The license shall authorize the holder to dispense hearing aids under the general supervision of a licensed dealer.

(c) The dealer's license fee shall be in an amount determined by the board and must be paid for each office or location established by the dealer.

(d) The dispenser's license fee shall be in an amount determined by the board.

**HISTORY:** Ga. L. 1970, p. 653, § 7; Code 1933, § 84-5607, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1984, p. 1119, § 1; Ga. L. 1991, p. 401, § 2 GA. L. 2010 p. 266, § 27/SB 195 .

#### 43-20-9. Qualifications; examinations; apprentice dispensers

(a) An applicant may obtain a license by successfully passing a board approved examination, provided that the applicant:

- (1) Is at least 18 years of age; and
- (2) Is of good moral character.

(b) Every apprentice dispenser who has held the permit over 30 days shall be scheduled to stand for the written examination at every scheduled examination until all sections have been passed, the permit has been revoked by the board, or the permit has expired. The board shall have the power to revoke a permit without a hearing if the holder of an apprentice dispenser permit fails to stand for the examination. The board shall also have the power to revoke a permit without a hearing if the holder of an apprentice dispenser permit fails to pass the written portion of the examination on two occasions. The board may include the fee for an initial examination as a condition for approval of an applicant for an apprentice dispenser's permit.

(c) The board shall establish uniform criteria for passing and failing candidates.

**HISTORY:** Ga. L. 1970, p. 653, § 9; Code 1933, § 84-5609, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1984, p. 1119, § 2; Ga. L. 1989, p. 423, § 1; Ga. L. 1991, p. 401, § 3; Ga. L. 1993, p. 452, § 1; Ga. L. 2000, p. 1706, § 19; GA. L. 2010 p. 266, § 28/SB 195 .

#### 43-20-10. Nonresident licenses; reciprocity

(a) Nonresident dealers' licenses may be issued to individuals domiciled outside of this state upon presentation of satisfactory evidence to the board that they comply with all provisions of this chapter for a dealer's license and upon payment of the fees required for such licenses. Holders of nonresident dealers' licenses shall be governed by and shall be subject to all conditions and provisions of this chapter relating to dealers' licenses.

(b) A nonresident dispenser's license may be issued to an applicant who holds a current unsuspended, unrevoked license to practice the dispensing of hearing aids in another state or jurisdiction upon payment of the fee provided for a dispenser's license under this chapter and upon presentation of satisfactory evidence to the board that such other state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this chapter for the practice of dispensing hearing aids, provided that such state or jurisdiction has a program equivalent to or stricter than that required by this chapter for determining the qualifications of applicants for a dispenser's license and that such state or jurisdiction has a provision for reciprocity and has entered into a reciprocal agreement with the board. No such applicant for a reciprocal nonresident dispenser's license shall be required to submit to or undergo a qualifying examination. The holder of a nonresident dispenser's license shall be registered in the same manner as the holder of a regular resident dispenser's license. Fees, grounds, and procedures for renewal, suspension, and revocation of dispensers' licenses shall apply to all nonresident dispensers' licenses.

**HISTORY:** Ga. L. 1970, p. 653, § 8; Code 1933, § 84-5608, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1991, p. 401, § 4.

#### 43-20-11. Apprentice dispenser's permit; training permits

(a) An apprentice dispenser's permit shall be issued by the division director on behalf of the board only when:

- (1) Application has been made;
- (2) A statement of supervision has been provided by a licensed dispenser;
- (3) A statement has been made by the supervising dealer that the applicant is capable of making the tests and applying the techniques required to dispense hearing aids in accordance with this chapter;
- (4) Proof of age has been made. Apprentice dispensers' permits are limited to one year in duration and shall not be renewed; and
- (5) The applicant has passed the practical portion of the examination.

(b) Training permits shall be issued by the division director on behalf of the board only when application has been made and a statement of supervision has been provided by a licensed dispenser. The permit should authorize the person to dispense hearing aids only under direct supervision and immediate observation of the licensed dispenser who shall be responsible for the trainees' compliance with this chapter. Proof of age shall also be made. Training permits should be for a duration of six months and may be renewed as often as necessary for additional six-month time periods so long as the requirements of this Code section for issuance of permits are met for each renewal.

**HISTORY:** Ga. L. 1970, p. 653, § 10; Code 1933, § 84-5610, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1984, p. 1119, § 3; Ga. L. 1989, p. 423, § 2; Ga. L. 1991, p. 401, § 5; Ga. L. 2000, p. 1706, § 19.

43-20-12. Notice to division director of place of practice and identification of dispensers, apprentice dispensers, and trainees; notice to holders of licenses and permits

(a) A person holding a dealer's license shall notify the division director in writing of the regular addresses of places of business operated by the dealer for dispensing hearing aids. Furthermore, the dealer is required to notify the division director in writing as to the names and license or permit numbers of all dispensers, apprentice dispensers, and trainees employed or otherwise practicing at each of his or her places of business. The dealer is required to notify the division director in writing of any changes of the foregoing within seven calendar days of such change. Any failure shall be considered a violation of this chapter by the dealer.

(b) Any notice required to be given by the division director or by the board to any person who holds a license or permit issued by the board shall be mailed to such licensee or permit holder to the address of the place of practice last recorded with the division director; and such mailing shall constitute sufficient notice to such licensee.

**HISTORY:** Ga. L. 1970, p. 653, § 11; Code 1933, § 84-5611, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2000, p. 1706, § 19; GA. L. 2010 p. 266, § 29/SB 195.

43-20-13. Furnishing bill of sale or receipt to person supplied with hearing aid

Any person who dispenses hearing aid devices or instruments shall deliver to each person supplied with a hearing aid device or instrument a written receipt or bill of sale in such form as may be prescribed by the board, which receipt or bill of sale shall contain, as a minimum, the dealer's name, license number, address, and schedule of office hours, as well as the dispenser's name, signature, and license number, together with specification as to the make and model and serial number of the hearing aid device or instrument furnished. The receipt or bill of sale shall also clearly state the full terms of sale, including guarantees, if any, and shall also contain such other information as the board may determine to be necessary in the public interest. If a hearing aid device or instrument which is not new is sold, the receipt therefore must be clearly marked

"used" or "reconditioned," whichever is applicable, with the terms of the guarantee, if any, clearly stated.

**HISTORY:** Ga. L. 1970, p. 653, § 4; Code 1933, § 84-5605, enacted by Ga. L. 1978, p. 1728, § 1.

#### 43-20-14. Biennial renewal of licenses; posting licenses; duplicate licenses

Licenses issued under this chapter shall be renewable biennially. Each and every dealer's license and dispenser's license required by this chapter shall be conspicuously posted at each location and place of practice at all times as may be required by regulations established by the board. When more than one office or place of business is operated, a duplicate license shall be obtained from the division director for each such location or place regularly carrying on the practice of dispensing hearing aid devices or instruments, upon the payment of an additional appropriate fee for each duplicate license. The address of the location or place of doing business shall be stated on the duplicate license, which shall be posted at the location.

**HISTORY:** Ga. L. 1970, p. 653, § 12; Code 1933, § 84-5612, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 2000, p. 1706, § 19.

#### 43-20-15. Continuing education requirement

As a prerequisite for the renewal of a dispenser's license, the dispenser must provide proof to the board that the dispenser has successfully completed 14 hours of continuing education in a program approved by the board. The board may promulgate such rules and regulations as are necessary to implement the continuing education requirement.

**HISTORY:** Code 1933, § 84-5613, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1984, p. 1119, § 4; Ga. L. 1994, p. 1715, § 1.

#### 43-20-16. Denial, nonrenewal, suspension, or revocation of licenses or permits; reprimands

In addition to any other penalties as provided for in this chapter, the board is authorized to reprimand any licensee or permit holder under this chapter and to suspend, revoke, or otherwise sanction his license or permit for a fixed period, or may refuse to renew or may deny the license or permit, upon affording an opportunity for a hearing, for any of the following causes:

- (1) Conviction of, or a plea of nolo contendere to, a felony or a misdemeanor involving moral turpitude. The record of conviction or plea or a copy thereof certified by the clerk of the court shall be conclusive evidence of such conviction or plea;
- (2) Procuring of a license or permit by fraud or deceit;
- (3) Selling, bartering, or offering to sell or barter a license or permit;
- (4) Purchasing or procuring by barter a license or permit with intent to use it as evidence of the holder's qualifications to practice the dispensing of hearing aid devices or instruments or to sell such devices or instruments;
- (5) Altering a license or permit with fraudulent intent;
- (6) Using or attempting to use as a valid license or permit a license or permit which has been purchased, fraudulently obtained, counterfeited, or materially altered;
- (7) Willfully making a false statement in an application for a license or permit or application for renewal of a license or permit;
- (8) Being found guilty of unethical conduct by the board or by some other tribunal or court of law. Unethical conduct shall include:
  - (A) Fraud or misrepresentation in the dispensing of a hearing aid;
  - (B) Knowingly employing, directly or indirectly, any suspended or unlicensed person to perform any service covered by this chapter;

- (C) Using, or causing or promoting the use of, any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive, or untruthful;
- (D) Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type and where it is determined that the purchase of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;
- (E) Representing that the services or advice of a licensed physician or an audiologist will be used or made available in the selection, adjustment, maintenance, or repair of hearing aids when that is not true or using the words "hearing center," "doctor," "ear specialist," "clinic," "clinical audiologists," "state licensed clinic," "state registered," "state certified," "state approved," or any other term, abbreviation, or symbol when it would falsely give the impression that one is being treated medically or that the licensee's or permit holder's service has been recommended by the state;
- (F) Representing or implying that a hearing aid device or instrument is or will be "custom made," "made to order," "prescription made," or in any other sense specially fabricated for an individual person when such is not the case;
- (G) Representing that a recommendation for a specific brand or model aid or source of product or service has resulted from an unbiased or impartial process when such is not the case;
- (H) Permitting another to use his license or permit;
- (I) Advertising a manufacturer's product or using a manufacturer's name or trademark which implies a relationship with the manufacturer that does not exist;
- (J) Giving or receiving, directly or indirectly, or offering to give or receive money or anything of value to any person who advises another in a professional capacity as an inducement to influence or have such person influence others to purchase or contract to purchase any product sold or offered for sale by a licensee or permit holder or to influence persons to refrain from dealing in the products of competitors;
- (K) Selecting or fitting a hearing aid for a person who has not been given the appropriate tests utilizing procedures and instrumentation as specified by this chapter or by the rules and regulations of the board; or
- (L) Committing any other professionally immoral act;
- (9) Practicing while suffering from a contagious or infectious disease;
- (10) Dispensing hearing aids under a false name or alias;
- (11) Violating any of the provisions of this chapter or the rules and regulations promulgated by the board; or
- (12) Gross incompetence or negligence in dispensing hearing aids.

**HISTORY:** Ga. L. 1970, p. 653, § 16; Code 1933, § 84-5617, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1982, p. 3, § 43.

#### 43-20-17. Procedure as to contested cases; judicial review

Contested cases under this chapter shall be administered in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; provided, however, that any person whose license or permit has been revoked, suspended, or otherwise sanctioned by a final order of the board or denied or not renewed pursuant to Code Section 43-20-16 may appeal to the superior court to review the decision of the board to determine its legal correctness; and provided, further, that the findings of fact rendered by the board will be accepted by the court if said findings are supported by any evidence.

**HISTORY:** Ga. L. 1970, p. 653, § 17; Code 1933, § 84-5618, enacted by Ga. L. 1978, p. 1728, § 1.

#### 43-20-18. Injunctions

The board shall have the power to bring an action to enjoin any person, firm, or corporation who, without being licensed or issued a permit by the board, dispenses hearing aids in this state. The action shall be filed in the county in which such person resides or practices or in the county where the firm or corporation maintains an office or practices. If it shall appear that the person, firm, or corporation is guilty of dispensing hearing aids without a license or permit issued by the board, then such person, firm, or corporation shall be enjoined from dispensing hearing aids without a valid license or permit throughout the state. It is declared that such unlicensed activities are a menace and a nuisance and are dangerous to the public health, safety, and welfare; and, therefore, it shall not be necessary, in order to obtain relief, as provided in this Code section, for the board to allege or prove that there is no adequate remedy at law.

**HISTORY:** Ga. L. 1970, p. 653, § 19; Code 1933, § 84-5619, enacted by Ga. L. 1978, p. 1728, § 1.

#### 43-20-19. Exceptions to operation of chapter

(a) This chapter shall not apply to a person who is a physician licensed to practice medicine in this state or to a person who is licensed as an audiologist under Chapter 44 of this title.

(b) This chapter shall not apply to a person while he is working as an employee of a federal, state, county, or municipal agency or a duly chartered educational institution or a training center, provided that such person does not engage in the sale, rental, or lease of hearing aids.

(c) Nothing in this chapter shall be construed to prevent a person licensed under any other law of this state from operating within the scope of that license, provided that such person does not engage in the sale, rental, or lease of hearing aids.

(d) Nothing in this chapter shall prohibit a corporation, partnership, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aid devices or instruments at retail, provided that it holds a dealer's license issued under this chapter and that it employs only properly licensed persons who engage in the sale or dispensing of such products to the purchaser and user thereof. Such corporations, partnerships, trusts, associations, or other like organizations shall file with the board a list of all licensed dispensers directly or indirectly employed by them, including the addresses and license numbers of such dispensers.

**HISTORY:** Ga. L. 1970, p. 653, § 5; Code 1933, § 84-5606, enacted by Ga. L. 1978, p. 1728, § 1; Ga. L. 1992, p. 3316, § 1.

#### 43-20-20. Penalty

Any person who dispenses or sells hearing aid devices or instruments without a license or who otherwise is in violation of this chapter shall be guilty of a misdemeanor. For the purposes of this chapter, such misdemeanor shall be considered a crime involving moral turpitude.

**HISTORY:** Ga. L. 1970, p. 653, § 21; Code 1933, § 84-9982, enacted by Ga. L. 1978, p. 1728, § 2.

#### 43-20-21. Repealed.

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